



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/771,890

02/04/2004

Hobie Reber

HOB-P-04-001

3879

29013 7590 12/23/2008  
PATENTS+TMS, P.C.  
2849 W. ARMITAGE AVE.  
CHICAGO, IL 60647

EXAMINER

ALLEN, WILLIAM J

ART UNIT

PAPER NUMBER

3625

MAIL DATE

DELIVERY MODE

12/23/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

*Ex parte* HOBIE REBER

---

Appeal 2008-4438  
Application 10/771,890  
Technology Center 3600

---

Decided: December 23, 2008

---

Before HUBERT C. LORIN, ANTON W. FETTING, and  
BIBHU R. MOHANTY, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Hobie Reber (Appellant) seeks our review under 35 U.S.C. § 134 of the final rejection of claims 1-20. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

## SUMMARY OF DECISION

We AFFIRM.<sup>1</sup>

### THE INVENTION

The invention is directed to a system for determining the availability and location of items available for sale by a merchant located within a multi-dealer retail establishment. The system comprises a computer network, a database associated with the network, and means for inputting merchant information into the database wherein the merchant information is associated with the merchant's location in the multi-dealer retail establishment. The system further comprises a means for accessing the merchant database from a remote location via a computer terminal and means for searching the database for item information available for sale by a merchant associated with the merchant's location within the multi-dealer retail establishment. (Specification 3:12 – 4:2).

Claim 1, reproduced below, is illustrative of the subject matter on appeal.

1. A system for determining an availability and a location of an item offered for sale by a merchant in a multi-dealer retail establishment wherein the multi-dealer retail establishment is a structure defined by walls wherein the walls define an interior space and wherein the availability and the location of the item are determined only within the multi-dealer retail establishment and further wherein the multi-dealer retail establishment has a plurality of merchants wherein each of the

---

<sup>1</sup> Our decision will make reference to the Appellant's Appeal Brief ("App. Br.," filed Aug. 27, 2007) and Reply Brief ("Reply Br.," filed Jan. 24, 2008), and the Examiner's Answer ("Answer," mailed Nov. 23, 2007).

plurality of merchants is associated with only one of a plurality of locations within the interior space of the multi-dealer retail establishment and each of the plurality of merchants offers a plurality of items that are a distinct group of items from any other merchant of the plurality of merchants, the system comprising:

- a computer network;

- a database associated with the computer network;

- means for inputting merchant information into the database wherein the merchant information is associated with the location of each one of the plurality of merchants wherein the merchants are located only within the interior space of the multi-dealer retail establishment;

- means for inputting item information in the database wherein the item information is associated with a description of the item and a price of the item wherein each one of the plurality of items is only locatable within the interior space of the multi-dealer retail establishment; and

- a computer terminal located within the interior space of the multi-dealer retail establishment wherein the computer terminal connects to the computer network and enables access to the item information and the merchant information and further wherein the computer terminal is remote with respect to the database and determines the location of the item wherein the item is only locatable within the interior space of the multi-dealer retail establishment by searching the item information in the database wherein the item information is associated with the location of the merchant within the interior space of the multi-dealer retail establishment.

## THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Pugliese	US 2001/0044751 A1	Nov. 22, 2001
Russell	US 2002/0083061 A1	Jun. 27, 2002
Chang	US 2003/0110078 A1	Jun. 12, 2003

Craig Crossman, *Look, listen and interact with multimedia*, Austin American Statesman, D6 (Mar. 21, 1994) (available at ProQuest (document ID: 83051038)).

The following rejections are before us for review:

1. Claims 1-3, 8-11, 13, 15, and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Chang in view of Russell.
2. Claims 4, 5, 7, 12, 14, 17, 19, and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Chang in view of Russell and further in view of Pugliese.
3. Claims 6 and 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Chang in view of Russell and further in view of Crossman.

## ISSUES

The first issue before us is whether the Appellant has shown that the Examiner erred in rejecting claims 1-3, 8-11, 13, 15, and 18 under 35 U.S.C. § 103(a) as being unpatentable over Chang in view of Russell. The first issue turns on 1) whether Chang and Russell are analogous art, 2) if so,

whether there is a motivation to combine Chang and Russell, and 3) if so, whether the combination of Chang and Russell would lead one of ordinary skill in the art to the claimed invention.

The second issue before us is whether the Appellant has shown that the Examiner erred in rejecting claims 4, 5, 7, 12, 14, 17, 19, and 20 under 35 U.S.C. § 103(a) as being unpatentable over Chang in view of Russell and further in view of Pugliese. The second issue turns of whether the combination of Chang, Russell, and Pugliese would lead one of ordinary skill in the art to the claimed invention.

The third issue before us is whether the Appellant has shown that the Examiner erred in rejecting claims 6 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Chang in view of Russell and further in view of Crossman. The third issue turns of whether the combination of Chang, Russell, and Crossman would lead one of ordinary skill in the art to displaying an electronic map associated with the multi-dealer retail establishment wherein the location of the merchant is associated with the item information.

### FINDINGS OF FACT

We find that the following enumerated findings of fact (FF) are supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

#### *Claim construction*

1. Claim 1 recites, “a multi-dealer retail establishment wherein the multi-dealer retail establishment is a structure defined by walls.” This limitation broadly covers, for example, a shopping mall which is an establishment containing a number of retailers dealing in items within a structure defined by walls.
2. Claim 1 recites, “means for inputting merchant information into the database wherein the merchant information is associated with the location of each one of the plurality of merchants wherein the merchants are located only within the interior space of the multi-dealer retail establishment.” The Specification exemplifies the use of a “merchant interface” as a means by which merchant information may be entered. (Specification 10:3-9; see element 20 on Fig. 1.)
3. Claim 1 recites, “means for inputting item information in the database wherein the item information is associated with a description of the item and a price of the item wherein each one of the plurality of items is only locatable within the interior space of the multi-dealer retail establishment.” The Specification exemplifies a computer terminal as a means by which item information may be entered. (Specification 14:18-20; see Fig. 2.)
4. Claim 1 recites, “a computer terminal located within the interior space of the multi-dealer retail establishment.” The claim does not place any limitation to where the computer terminal may be located within the multi-dealer retail establishment (e.g., a shopping mall). Accordingly, the claim covers a computer

terminal in a retail establishment that a merchant would use to input item information in the database.

5. Claim 1 recites, “wherein the computer terminal is remote with respect to the database.” The Specification does not provide a definition for “remote.” The ordinary and customary meaning of “remote” is “of or by means of a terminal, etc. located some distance away from the computer [database] and therefore requiring a communication line.” (*See Webster’s New World Dictionary* (3<sup>rd</sup> Ed. 1988.) (Entry 9. *Comput.* for “remote”; adj.). Accessing a database via a webpage over the Internet is normally accomplished by using a terminal some distance away from the database being accessed.
6. Claim 18 uses the term “geographical.” The Specification does not provide a definition for “geographic.”
7. The ordinary and customary meaning of “geographic” is “belonging to or characteristic of a particular region.” (*See Merriam-Webster’s Collegiate Dictionary* 487 (10<sup>th</sup> Ed. 1993,) (Entry for “geographic”; adv.).

*The Invention*

8. The Appellant’s invention relates to a system and method to locate available products for sale in multi-dealer retail establishment. (Specification 1:9-11.)
9. An objective of the invention is to keep the information in the system complete and current. (Specification 1:25 - 2:30.)



10. The Specification describes a multi-dealer retail establishment exemplified by a shopping mall, antique mall, flea market, or the like. (Specification 1:14-17.)
11. The Specification describes using a website 18 as a means for inputting merchant information into the database 14. (Specification 10:23-25.)
12. The Specification describes using website 18 as a means for inputting item information. (Specification 14:16-18.)

*The scope and content of the prior art*

*Chang*

13. Chang relates to a system and method for collecting product information from a broadcast and using the information to determine product location and cost. (Chang [0007] – [0008].)
14. Chang is concerned with facilitating shopping by making it easier to locate advertised products. (Chang [0005] – [0007].)
15. Chang describes a shopping computer located at a kiosk in a shopping center, mall, or other shopping venue. (Chang [0025].)
16. Chang describes inputting data from a broadcast into the shopping computer and retrieving product data. (Chang [0009].)
17. Chang describes that the product data could include physical location of a product in a particular store, current price, similar products, coupons, stock of product, etc. (Chang [0023].)
18. Chang describes that the shopping computer is connected to a database, which contains the product data. (Chang [0020].)
19. Figure 1 of Chang shows the shopping computer separate from the database.

*Russell*

20. Russell relates to a method of creating a searchable electronic database for use in tradeshow and conventions. (Russell [0002].)
21. Russell is concerned with creating an efficient way to generate information for an attendee to find a particular vendor or exhibitor. (Russell [0003]-[0006].)
22. The vendors are exhibitors at the tradeshow. (Russell [0009].)
23. Russell describes the database containing vendor products, website address, catalogue information, show location, and product cost. Russell [0007] and [0009].
24. Russell states, “[i]n the preferred embodiment, tradeshow information is collected via the Internet and electronically compiled into a database ....” (Abstract.)
25. Russell describes that vendors use a secure web page to upload web page address and information about their products into the database. (Russell [0007].)
26. Russell describes that the database can be uploaded on a web page. (Russell [0007].)
27. Russell describes that the database can be accessed by a user using a computer system and wireless network provided at the tradeshow. (Russell [0012].)
28. Russell describes providing an access password for the web page having the database. (Russell [0007].)

*Pugliese*

29. Pugliese describes a system where online shoppers can browse a brick and mortar store and interact with sales people. (Pugliese [0008].)
30. Pugliese describes a merchant logging on to their video station. (Pugliese [0337].)
31. Pugliese describes a lost password processing function that sends a lost password to a merchant via email when requested. (Pugliese [0332].)
32. Pugliese describes the system having a manage merchant catalog function that allows merchants to enter update product information within the merchant's online catalog. (Pugliese [0341].)
33. Pugliese describes a merchant registration which allows an administrator or merchant to register and update merchant information, including location. (Pugliese [0335].)
34. Pugliese describes a shopper profile which includes store preferences, shopping history, and consumer behavioral data. (Pugliese [0117].)
35. Pugliese describes a manage personal fold function which allows a shopper to keep records, notes, or reminders. (Pugliese [0206].)
36. Pugliese describes a Merchant Data Domain which includes store specific inventory information. (Pugliese [0099].)

*Crossman*

37. Crossman describes multi media interaction systems. (Pg. 1.)
38. Crossman states, "[t]ouching the screen might start a small video window in which a salesperson points out where you can buy selected products, while another portion of the screen displays an

animated map showing your location and how to get to the store.”

(Pg. 1.)

*Any differences between the claimed subject matter and the prior art*

39. Chang does not explicitly disclose a means for inputting merchant information and a means for inputting item information.

*The level of skill in the art*

40. Neither the Examiner nor the Appellant has addressed the level of ordinary skill in the pertinent art of product identification. We will therefore consider the cited prior art as representative of the level of ordinary skill in the art. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001) (“[T]he absence of specific findings on the level of skill in the art does not give rise to reversible error ‘where the prior art itself reflects an appropriate level and a need for testimony is not shown’”) (Quoting *Litton Indus. Prods., Inc. v. Solid State Sys. Corp.*, 755 F.2d 158, 163 (Fed. Cir. 1985)).
41. One of ordinary skill in the art would know to use a webpage to efficiently input information into a database.
42. One of ordinary skill in the art would know that a password could be used to logon to a computer system.

*Secondary considerations*

43. There is no evidence on record of secondary considerations of non-obviousness for our consideration.

## PRINCIPLES OF LAW

### *Claim Construction*

During examination of a patent application, a pending claim is given the broadest reasonable construction consistent with the specification and should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). “[W]e look to the specification to see if it provides a definition for claim terms, but otherwise apply a broad interpretation. As this court has discussed, this methodology produces claims with only justifiable breadth. *In re Yamamoto*, 740 F.2d 1569, 1571 (Fed. Cir. 1984). Further, as applicants may amend claims to narrow their scope, a broad construction during prosecution creates no unfairness to the applicant or patentee. *Am. Acad.*, 367 F.3d at 1364.” *In re ICON Health and Fitness, Inc.*, 496 F.3d 1374, 1379 (Fed. Cir. 2007). Limitations appearing in the specification but not recited in the claim are not read into the claim. *E-Pass Techs., Inc. v. 3Com Corp.*, 343 F.3d 1364, 1369 (Fed. Cir. 2003).

### *Obviousness*

“Section 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.’” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1734 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, and (3) the level of skill in the art. *Graham v. John Deere Co.*, 383

U.S. 1, 17-18 (1966). *See also KSR*, 127 S. Ct. at 1734 (“While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.”) The Court in *Graham* further noted that evidence of secondary considerations “might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” 383 U.S. at 17-18.

## ANALYSIS

### *The Rejection of Claims 1-3, 8-11, 13, 15, and 18*

#### *Claims 1*

We begin by giving claim 1 the broadest reasonable construction in light of the Specification as it would be interpreted by one of ordinary skill in the art. Claim 1 describes a system comprising a computer network, a database associated with the computer network, means for inputting merchant information into the database, means for inputting item information into the database, and a computer terminal located within the interior space of, for example, a mall remote from the database that is capable of accessing and searching the information in the database.

The Examiner has taken the position that Chang discloses the claimed invention but for an explicit teaching of inputting merchant and item information in the database. In that regard, the Examiner has stated that inputting such information is implicit in the practice of Chang’s invention (Final Rejection 5) but also relies on Russell as evidence of an explicit prior art disclosure of inputting vendor information which necessarily shows inputting item and merchant information. (Final Rejection 6 and Answer 5.) The Examiner concluded therefrom that

[i]t would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Chang to have included *means for inputting merchant information and item information* as taught by Russell in order to provide a system that allows vendors to upload information into an electronic database compatible with searchable reader software thereby facilitating efficient search for and generation of desired information (such as product or vendor location) for a user in a multi dealer establishment (see at least: Russell, abstract, 0006, 0008).

(Final Rejection 6.)

We have carefully reviewed the record and find that the Examiner has established a prima facie case of obviousness that includes an articulation of an apparent reasoning to combine the references which would lead one of ordinary skill in the art to the invention as claimed and one that is logically underpinned.

The Appellant argues 1) that the combination of Chang and Russell does not disclose all of the limitations of claim 1, 2) that motivation to combine Chang and Russell does not exist in the record, and 3) that Chang and Russell are non-analogous.

First, the Appellant argues that neither Chang nor Russell specifically describes:

- 1) “a multi-dealer retail establishment that is defined by walls;”
- 2) “a means for inputting merchant and item information that covers merchants in a multi-dealer retail establishment defined by walls and an interior space wherein the availability and the location of the item

are determined only within the interior space of the multi-dealer retail establishment;”

3) “a computer terminal located within a multi-dealer retail establishment defined by walls and an interior spaced that allows a user to search for items for sale within the multi-dealer retail establishment;” and

4) “a computer terminal that may access a separately-located database that contains merchant and item information covering merchants and items located within a multi-dealer retail establishment.”

(App. Br. 13.)

Obviousness requires “a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007). “The first issue we address with respect to obviousness is the scope and content of the prior art—specifically whether the prior art exhibited every step of the methods claimed in independent claims 1 and 31 of the ’099 patent.” *Muniauction, Inc. v. Thomson Corp.*, 532 F.3d 1318, 1324 (Fed. Cir. 2008).

We agree with the Examiner that all of the limitations of claim 1, including those above, are found in Chang and Russell. Chang describes a shopping mall, which is a multi-dealer retail establishment defined by walls. (FF 10 and 15.) A shopping computer is located at shopping mall (FF 15) and is remotely connected to a database (FF 18-19). The database contains product location information. (FF 17.) Russell describes using a secured web page to collect vendor information and product information and input the information into a database. (FF 25-26.) Russell describes inputting



information for vendors exhibiting at the trade show. (FF 22 and 25.)

Therefore, the database contains information regarding merchants and products located at the tradeshow. A computer system located at a tradeshow can be used to locate vendors and products. (FF 27.)

Second, the Appellant argues that “no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to combine *Chang et al.* with *Russell* to produce the claimed invention.” (App. Br. 15.) The Examiner contends that one of ordinary skill in the art would be motivated to use a web page as in *Russell* as the means for inputting information into the database of *Chang* in order to facilitate “efficient search for and generation of desired information.” (Final Rejection 6.)

“The motivation need not be found in references sought to be combined, but may be found in any number of sources, including common knowledge, the prior art as a whole, or the nature of the problem itself.” *Dystar Textilfarben GmbH & Co. Deutschland KG v. C.H. Patrick Co.*, 464 F.3d 1356, 1361 (Fed. Cir. 2006).

We find that one of ordinary skill in the art would be led to use a webpage as in *Russell* to input information into the database in *Chang*. While *Chang* does not explicitly describe a means for inputting information into the database, *Chang* does describe that the data exists into the database. (FF 16-17.) In order for the data to exist in the database, the data must have been inputted. We find the act of inputting data into a database not only a matter of common sense to those of ordinary skill in the art of computing but well within the understanding of one of ordinary skill reading *Chang* that such an act is necessarily required to practice the *Chang* invention. “A

person of ordinary skill is also a person of ordinary creativity, not an automaton.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1742 (2007). *See also Allvoice Computing PLC. V. Nuance Communications, Inc.*, 504 F.3d 1236, 1242 (Fed. Cir. 2007).

Nevertheless, one of ordinary skill in the art would have been led to input information into the Chang database given Russell. Russell describes that a webpage is a means of inputting data into a database. (FF 24-25.) Using a webpage to input information directly into a database would be an efficient way of generating information. (FF 41.) We are cognizant that Russell inputs information into a database where the database is used for a purpose (e.g., tradeshow) that is somewhat different from that of Chang (e.g., a mall), but this does not lead one of ordinary skill away from the combination. But “[c]ommon sense teaches, however, that familiar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle.” *KSR* at 1742.

Further, the Appellant argues that motivation to combine does not exist since Russell describes a tradeshow and not a retail establishment and that this teaches away from the combination. (Reply Br. 6.) The test of whether a reference teaches away from the claimed subject matter is:

A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant. The degree of teaching away will of course depend on the particular facts; in general, a reference will teach away if it suggests that the

line of development flowing from the reference's disclosure is unlikely to be productive of the result sought by the applicant.

*In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994); *see KSR*, 127 S. Ct. at 1739–40 (explaining that when the prior art teaches away from a combination, that combination is more likely to be nonobvious).

We find that Russell does not teach away from the Appellant's invention, using the system in a tradeshow environment does not discourage one of ordinary skill in the art from using the system in a retail environment. We see nothing in Russell which would discourage one from using the retail environment that Chang clearly describes.

Third, the Appellant argues that both Chang and Russell are non-analogous to Appellant's invention because 1) Chang relates to a system for receiving broadcast advertising and 2) Russell relates to a method for providing a searchable electronic database for a tradeshow. (Reply Br. 10.) The Examiner contends that Chang and Russell pertain to multi-dealer venues with product/vendor locating means and are pertinent to the problem applicant is attempting to solve. (Answer 5.)

“The analogous-art test requires that the Board show that a reference is either in the field of the applicant's endeavor or is reasonably pertinent to the problem with which the inventor was concerned in order to rely on that reference as a basis for rejection. References are selected as being reasonably pertinent to the problem based on the judgment of a person having ordinary skill in the art.” *In re Kahn*, 441 F.3d 977, 986-87 (Fed. Cir. 2006). “A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended

itself to an inventor's attention in considering his problem." *In re Clay*, 966 F.2d 656, 659 (Fed. Cir. 1992).

We find that both Chang and Russell are reasonably pertinent to the particular problem being solved by the Appellant. Appellant's particular problem is providing an accessible, updatable information database used to located merchants and products. (FF 8-9.) Chang's is concerned with providing efficient location of product information (FF 13-14), including within a shopping mall. Russell is concerned with creating an efficient way to generate information for an attendee at a tradeshow to find a particular vendor or product. (FF 20-21.)

We have considered all the Appellant's arguments challenging the Examiner's prima facie case of obviousness but, for the foregoing reasons, do not find them persuasive as to error in the Examiner's rejection of claim 1 as unpatentable over Chang in view of Russell.

#### *Claim 8*

The Appellant argues against the rejection of claim 8 for the same reasons used to argue against the rejection of claim 1. (App. Br. 17). For the same reasons we found these same arguments unpersuasive as to the rejection of claim 1, we find them equally unpersuasive as to error in the rejection of claim 8.

#### *Claim 2*

The Appellant argues that the combination of Chang and Russell does not describe using the internet as the computer network recites in claim 1. (App. Br. 19-21.) The Examiner contends that the combination of Chang

and Russell would lead one of ordinary skill to use the internet for the claimed computer network. (Final Rejection 7.)

We find that one of ordinary skill would be led by Chang and Russell to use the internet as the computer network. Claim 1 requires the computer network to be associated with the database and connected to the computer terminal and claim 2 limits the computer network to be the internet. Russell describes that the Internet can be used to upload information via a webpage to a database. (FF 24.) Russell also describes that a computer at the tradeshow can be used to access the database. (FF 27.)

Therefore, we hold that the Appellant has not shown that the Examiner erred in rejecting claim 2 as unpatentable over Chang in view of Russell.

### *Claim 3*

The Appellant argues that the combination of Chang and Russell does not describe the database being contained on a remote server and accessed by a website as recited by claim 3. (App. Br. 20 and 22.) The Examiner contends that Russell describes a remote server for maintaining the database and website for access to the database. (Answer 7.)

We find that one of ordinary skill would be led by Chang and Russell to contain the database on a remote server and access the database by a website. Claim 3 recites, “a remote server wherein the database is contained on the remote server; and a website providing access to the database.” Russell describes that information is collected via the Internet and compiled onto a database (FF 24-25). While Russell indicates that the database can be uploaded on a webpage (FF 26), it is common knowledge to those in the

computer art that access to a database from a web page on the Internet is and can be normally accomplished by using a terminal some distance away from the database being accessed. (FF 5.)

Therefore, we hold that the Appellant has not shown that the Examiner erred in rejecting claim 3 as unpatentable over Chang in view of Russell.

*Claim 9*

The Appellant argues against the rejection of claim 9 for the same reasons used to argue against the rejection of claim 2. (App. Br. 20-21.) Accordingly, Appellant has not shown that the Examiner erred in rejecting claim 2, because we found them unpersuasive as to that rejection, we find them equally unpersuasive as to error in the rejection of claim 9.

*Claim 10*

Appellant argues that while Russell discloses accessing the database wirelessly as recited in dependent claim 10, Russell does not teach that the database contains multi-dealer retail establishment information recited in independent claim 8. (App. Br. 21.) Claim 10 depends on claim 8. The Examiner contends that Russell teach wireless access to a database. (Answer 6.)

We find that one of ordinary skill would be led by Chang and Russell to wirelessly access a database that contains the multi-dealer retail establishment information. Chang describes a database containing multi-dealer retail establishment information. (FF 15-18.) Russell describes accessing the databases wirelessly. (FF 27.) When combined, Chang and

Russell teach a database containing multi-dealer retail establishment information that is accessed wirelessly. “The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR* at 1739. In that regard, the Appellant has not come forward with evidence of unexpected results. (FF 43.)

We hold that the Appellant has not shown that the Examiner erred in rejecting claim 10 as unpatentable over Chang in view of Russell.

*Claim 11*

The Appellant argues against the rejection of claim 11 for the same reasons used to argue against the rejection of claim 3. (App. Br. 22.) Accordingly, Appellant has not shown that the Examiner erred in rejecting claim 3, because we found them unpersuasive as to that rejection, we find them equally unpersuasive as to error in the rejection of claim 11.

*Claim 13*

The Appellant argues against the rejection of claim 13 for the same reasons used to argue against the rejection of claim 3. (App. Br. 22-23.) Accordingly, Appellant has not shown that the Examiner erred in rejecting claim 3, because we found them unpersuasive as to that rejection, we find them equally unpersuasive as to error in the rejection of claim 13.

*Claim 15*

The Appellant argues against the rejection of claim 15 for the same reasons used to argue against the rejection of claim 3. (App. Br. 23-24.) Accordingly, Appellant has not shown that the Examiner erred in rejecting

claim 3, because we found them unpersuasive as to that rejection, we find them equally unpersuasive as to error in the rejection of claim 15.

*Claim 18*

The Appellant argues that the combination of Chang and Russell does not describe the item information including geographic information as recited in claim 18. (App. Br. 24.) The Examiner contends that the information of the location of a product in a particular store in Chang constitutes geographic information. (Answer 6.)

We find that Chang describes geographical information associated with an item for sale. Claim 18 states, “wherein the item information includes geographical information associated with the item for sale.” The ordinary and customary meaning of geographic is belonging to characteristic of a particular region. (FF 6-7.) Chang describes product data in a database including location of a product in a particular store. (FF 17.) The location of a product in a particular store is information about which region the product belongs to. Therefore, Chang describes item information including geographic information.

We hold that the Appellant has not shown that the Examiner erred in rejecting claim 18 as unpatentable over Chang in view of Russell.

*The rejection of claims 4, 5, 7, 12, 14, 17, 19 and 20*

*Claim 4*

The Appellant argues that even though Pugliese describes that a merchant is able to login to an application to update existing products in



their respective catalogues as recited in claim 4, the merchant and products are not confined to a multi-dealer retail establishment. (App. Br. 28-29.)

Claim 4 recites a means for modifying the merchant information in the database of claim 1. Claim 1 requires that the item information relates to items only locatable within the interior space of the multi-dealer retail establishment. As discussed above with regards to claim 1, Russell only describes inputting information from vendors exhibiting at the trade show. (FF 22 and 25.) Therefore, when Chang, Russell, and Pugliese are combined, the merchant information in the database relates only to merchants in the multi-dealer retail establishment.

We hold that Appellant has not shown that the Examiner erred in rejecting claim 4 as unpatentable over Chang in view of Russell.

#### *Claim 5*

The Appellant argues that the combination of Chang, Russell, and Pugliese does not describe a password associated with a merchant for accessing the merchant information in the database as required by claim 5 because Pugliese merely describes a lost password processing function. The Examiner contends that Pugliese describes that a registered merchant can update merchant information and receives a password. (Final Rejection 13.)

We find that one of ordinary skill in the art would know that the password obtained from the lost password processing function is used to log onto the computer system to update merchant information. While Pugliese does not expressly teach that the password is used to logon to the computer system, Pugliese does teach that the merchant receives the password (FF 31), logs onto the computer system (FF 30) and updates information (FF 32)

associated with the merchant. Given these teachings, one of ordinary skill in the art would infer that the password is used in logging onto the computer system to update merchant information. (FF 42.)

We hold that Appellant has not shown that the Examiner erred in rejecting claim 5 as unpatentable over Chang in view of Russell.

*Claim 7*

The Appellant argues that even though Pugliese describes means for inputting and accessing an image in a database, as recited in claim 7, Pugliese does not confine the information to merchants and products in the interior space of a multi-dealer retail establishment. (App. Br. 31.) The Examiner relies upon Chang and Russell to teach a means of inputting information and Pugliese for making the type of information image information. (Final Rejection 13 and 15.)

Claim 7 recites a means for inputting and accessing an image associated with an item in the database recited in claim 1. Claim 1 requires that the item information relates to items only locatable within the interior space of the multi-dealer retail establishment. As discussed above with regards to claim 1, Russell only describes inputting information from vendors exhibiting at the trade show. (FF 22 and 25.) Therefore, when Chang, Russell, and Pugliese are combined, the item information in the database relates only to items in the multi-dealer retail establishment.

We hold that Appellant has not shown that the Examiner erred in rejecting claim 7 as unpatentable over Chang in view of Russell.

*Claim 12*

The Appellant argues that Pugliese does not teach that merchant information is stored in a database or that the merchant information can be modified via the computer network as required by claim 12 even though Pugliese describes a merchant information system that manages the registration of merchants, locations and departments. (App. Br. 31-32.) The Examiner relies upon Chang and Russell to teach storing merchant information in a database via a computer network and Pugliese for the idea of providing a second access to the database. (Final Rejection 14.)

Claim 12 states, “providing a second access to the database for modifying the merchant information in the database via the computer network.” As previously discussed with regards to claims 1, Russell describes using a webpage to input vendor information into a database. (FF 24-25.) Pugliese describes allowing both merchants and merchant administrators to the ability to update merchant registration. (FF 33.) Therefore, when Chang, Russell and Pugliese are combined, a second access to the database via the computer network is provided.

We hold that Appellant has not shown that the Examiner erred in rejecting claim 12 as unpatentable over Chang in view of Russell.

#### *Claim 14*

The Appellant argues against the rejection of claim 14 for the same reasons used to argue against the rejection of claim 5. (App. Br. 32-33.) Accordingly, Appellant has not shown that the Examiner erred in rejecting claim 5, because we found them unpersuasive as to that rejection, we find them equally unpersuasive as to error in the rejection of claim 14.

*Claim 17*

The Appellant argues against the rejection of claim 17 for the same reasons used to argue against the rejection of claim 7. (App. Br. 33-34.) Accordingly, Appellant has not shown that the Examiner erred in rejecting claim 7, because we found them unpersuasive as to that rejection, we find them equally unpersuasive as to error in the rejection of claim 17.

*Claim 19*

The Appellant argues that Pugliese does not teach a system to input the user information into the database via the computer network as recited in claim 19 even though Pugliese describes a manage personal folder function that stores user information and allows users to maintain a list of products and merchants of interest to themselves. (App. Br. 35.) The Examiner relies upon Chang and Russell to teach that a user can input search information via a computer network and Pugliese to teach inputting user information into the database. (Final Rejection 15-16.)

Claim 19 recites, “inputting user information into the database via the computer system wherein the user information is associated with the user.” As previously discussed with regards to claims 1, Russell describes using a webpage to input vendor information into a database. (FF 24-25.) Pugliese describes providing a shopper profile and a manager personal folder function containing information inputted by the shopper. (FF 34-35.) Therefore, when Chang, Russell and Pugliese are combined, a shopper can input user information via the computer network.

We hold that Appellants have not shown that the Examiner erred in rejecting claim 19 as unpatentable over Chang in view of Russell.

*Claim 20*

The Appellant argues that Pugliese does not teach a system to input the inventory of the merchant into the database via the computer system as required by claim 20 even though Pugliese describes an external inventory system and an inventory access system that provides the ability to query catalog inventory availability at a store location level. (App. Br. 36-37.) The Examiner relies upon Chang and Russell to teach that a user can input search information via a computer network and Pugliese to teach inputting inventory information into the database. (Final Rejection 16-17.)

Claim 20 recites, “inputting an inventory of the merchant into the database via the computer system.” As previously discussed with regards to claim 1, Russell describes using a webpage to input vendor information into a database. (FF 24-25.) Pugliese describes providing merchant inventory information in a database. (FF 36.) Therefore, when Chang, Russell, and Pugliese are combined, a merchant can input inventory information into the database via the computer system.

We hold that Appellant has not shown that the Examiner erred in rejecting claim 20 as unpatentable over Chang in view of Russell.

*The rejection of claims 6 and 16*

*Claim 6*

The Appellant argues that Crossman does not teach associating item information with the merchant displayed on the map as required by claim 6 even though Crossman describes displaying an animated map and how to get to a store on a kiosk at a mall. (App. Br. 40-41.) The Examiner relies upon Chang and Russell to lead one of ordinary skill in the art to the step of

locating an item at a merchant in a multi-retail establishment and Crossman to describe a kiosk at a mall which points out a product location and displays a map of the location. (Final Rejection 16-17.)

Claim 6 recites, “an electronic map associated with the multi-dealer retail establishment wherein the location of the merchant associated with the item information is displayed on the electronic map.” As previously discussed with regards to claim 1, Chang describes a multi-retail establishment. (FF 15.) Crossman describes associating item information with a merchant and displaying the location of the merchant on a map. (FF 38.) Therefore, when Chang, Russell, and Crossman are combined, one of ordinary skill is led to displaying a map with the location of a merchant associated with item information in a multi-retail establishment.

We hold that Appellant has not shown that the Examiner erred in rejecting claim 6 as unpatentable over Chang in view of Russell.

### *Claim 16*

The Appellant argues against the rejection of claim 16 for the same reasons used to argue against the rejection of claim 6. (App. Br. 41-42.) Accordingly, Appellant has not shown that the Examiner erred in rejecting claim 6, because we found them unpersuasive as to that rejection, we find them equally unpersuasive as to error in the rejection of claim 16.

## CONCLUSIONS OF LAW

We conclude that the Appellant has not shown that the Examiner erred in rejecting claims 1-3, 8-13, 15 and 18 under 35 U.S.C. § 103 as unpatentable over Chang in view of Russell, claim 4, 5, 7, 12, 14, 17, 19,

Appeal 2008-4438  
Application 10/771,890

and 20 over Change in view of Russell and further in view of Pugliese, and claims 6 and 16 over Chang in view of Russell and further in view of Crossman.

#### DECISION

The decision of the Examiner to reject claims 1-20 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

AFFIRMED

hh

PATENTS+TMS, P.C.  
2849 W. ARMITAGE AVE.  
CHICAGO, IL 60647